

CANNON BUILDING  
861 SILVER LAKE BLVD., SUITE 203  
DOVER, DELAWARE 19904-2467

STATE OF DELAWARE  
**DEPARTMENT OF STATE**  
DIVISION OF PROFESSIONAL REGULATION

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PUBLIC MEETING MINUTES:	<b>COUNCIL ON REAL ESTATE APPRAISERS</b>
MEETING DATE AND TIME:	<b>Tuesday, April 19, 2011 at 9:30 a.m.</b>
PLACE:	861 Silver Lake Boulevard, Dover, Delaware <b>Conference Room A</b> , 2nd floor of the Cannon Building
MINUTES APPROVED:	<a href="#">May 17, 2011</a>

**Members Present**

William Diveley, Chair, Professional Member  
Gary V. Parker, Vice Chair, Professional Member  
Stephen Huston, Professional Member  
Brad Levering, Professional Member  
Frank Smith, Public Member  
Yvonne Rickards, Public Banking Member  
Ronald Mandato, Professional Member  
Richard Wheeler, Public Member  
Frank Long, Public Member

**Division Staff/Deputy Attorney General**

Patricia Davis-Oliva, Deputy Attorney General  
Nicole Williams, Administrative Specialist II

**Members Absent**

None

**Others Present**

Jay White

**Call to Order**

Mr. Diveley called the meeting to order at 9:30 a.m.

**Disciplinary Hearing: Kelly L. Leaberry at 9:30 a.m. – CANCELLED**

The Council reviewed the consent agreement. Mr. Wheeler spoke to the Council regarding two counts he felt was very egregious and intentional. Mr. Long entered the meeting.

Mr. Wheeler added that as a member of the public he would be very concerned about hiring an appraiser that had two very serious criminal counts as Ms. Leaberry. Mr. Parker concurred. Mr. Parker also added that he did not understand how Ms. Leaberry could not get a conviction for the theft charges. Ms. Davis-Oliva clarified the STET program that Ms. Leaberry entered into Maryland and stressed that there was no criminal conviction on her record.

Mr. Parker stated that his concern is Ms. Leaberry's deception on her application to become licensed. Mr. Parker stated in addition that on the National Registry the sanctions in Ms. Leaberry's consent agreement will not show up to the public on the national registry.

Mr. Diveley provided a recap of a similar case in the State of Michigan and the sanctions given by Michigan. Those sanctions were substantially harsher than those sanctions in Ms. Leaberry's consent agreement. Ms. Davis-Oliva requested on behalf of the Attorney General's office what sanctions would be appropriate for the violations Ms. Leaberry committed if the Council chose to reject the Council. The Council discussed those sanctions.

Mr. Huston suggested the Council review the matrix to formulate those sanctions for the violations. Mr. Mandato stated that the matrix is a great guide for sanctions.

Ms. Rickards inquired if the Council could revoke the license for the violations committed. Mr. Diveley responded that revocation is a sanction that the Council can impose. The Council further discussed.

The Council reviewed and discussed the voluntary disciplinary matrix.

Mr. Huston inquired if the consent agreement is rejected will the case come before the council for a hearing. Ms. Davis-Oliva advised that the case will come before the Council for a formal disciplinary hearing.

Mr. Huston recommended the sanction be a much longer suspension or revocation. Mr. Diveley concurred.

Mr. Mandato and the Council reviewed the consent agree again with discussion of the repeated violations within months apart.

Mr. Huston made a motion to reject the consent agreement in its entirety. Mr. Parker inquired if Ms. Leaberry will still be allowed to practice during this process. Mr. Davis-Oliva advised that she will until the AG's office reviews the consent agreement and

Council's suggestions again to determine if a hearing will be brought before the Council or submission of another consent agreement for Council's review. Mr. Parker seconded Mr. Huston's motion. Mr. Levering recused himself from the vote. The motion carried majority vote.

### **Review and Approval of Minutes**

The Council reviewed the March minutes. Mr. Mandato made a motion to approve the minutes as submitted, seconded by Mr. Huston. The motion carried unanimously.

### **Unfinished Business**

#### **Legislative Updates: Discussion of Recent Superior Court Decision – Administrative Record**

Ms. Davis-Oliva advised the Council of a Superior Court Decision regarding a dispute between employees of the office of management and budget. Public Employment Relations Board (PERB) heard the case and the official decision was overturned due to outside evidence that was presented in the hearing. Ms. Davis-Oliva advised that discussion of information outside of the evidence presented in a case can result in an overturn of a decision therefore she strongly warned the Council to not discuss any evidence not originally presented in any case. There was no further discussion by the Council.

#### **Discussion of Proposed Legislative Changes and Current Status**

Ms. Davis-Oliva provided an update to the status of the bills presented to legislators. Mr. Parker stated that the definition for licensed real property appraiser in regards to transaction value was to not be changed at the recommendation of Mr. Fenochietti of the Appraisal Subcommittee. Ms. Davis-Oliva read exactly what the Council determined to define as licensed real property appraiser as it currently stands in the statute. The Council determined to have the statement "A licensed real property appraiser cannot appraise a property with a market value of more than \$1,000,000" added to the current definition. Ms. Davis-Oliva will make the change and draft the final bill. There was no further discussion.

#### **Status of Complaints**

19-03-10 – Mr. Parker advised that this complaint is being forwarded to the AG's office for further review.

### **New Business**

New Complaint: 19-02-11 New Castle Co. – Assigned to Mr. Diveley.

#### **Ratification of Issued Licenses**

Wesley Piper: Trainee – Supervisor: Glen Piper, X2-0000142 and William Lingo, X1-0000130

Rebecca Deaton: Trainee – Supervisor: Clarence Snyder, III, X1-0000413

Jerod Byrd, NH – Certified General

Barbara Cantrell, MD – Certified General

Edward Falkowski, PA – Certified General

Eric Sharp, NJ – Certified General

Jeffrey Carroll, NC – Certified General  
Alvin Daviston, PA – Certified Residential  
Michael Lester, MD, DC, VA – Certified General  
Daniel Carlson, VA – Certified General

Mr. Diveley read the list of names. Mr. Levering requested clarification of the requirements for reciprocity. Ms. Williams clarified for the record that reciprocal applicants are only required to have a current license in good standing from another jurisdiction; they do not have to meet the new 2008 AQB criteria if they are already licensed in the area in which they are applying. Mr. Parker made a motion to ratify the licensee listing as submitted, seconded by Mr. Huston. The motion carried unanimously.

#### Ratification of Issued Continuing Education Activities

Mr. Levering made a motion to ratify the CE listing as submitted, seconded by Mr. Huston. The motion carried unanimously.

#### Review of Temp Applications

Mr. Diveley announced the names below that were issued temporary permits.

Thomas Shields – Kent Co.  
David Salinas – New Castle Co.  
Scott McCorvie – 2 different assignments in New Castle Co.  
Jeffrey Carroll – Kent Co. and Sussex Co.  
Harry Kimball – Tunnell Portfoli, Various Tax Account Properties  
Jerrold Harvey – 2 properties in Kent and Sussex Co.  
Michael Cummings – New Castle Co.  
Ann Porter – Sussex Co.  
Michael Wood – New Castle Co.  
Michael Cummings – New Castle Co.  
Todd Agnew – 3 properties in New Castle Co.  
Daniel Hanlon, III – New Castle Co.

There was no further discussion by the Council.

#### **Other Business before the Council (for discussion only)**

Mr. Huston updated the Council regarding the Real Estate Commission's language for the BPO/CMA. Mr. Huston added that the one sentence the Council recommended will be further discussed as he will be attending the Commission's meeting.

Mr. Levering inquired about any response received from the proposed assessor's regulations. Ms. Williams advised that the second notice went out to the DEC via email and mail and still no response was received. Ms. Davis-Oliva recommended going forth with publishing those proposed regulations for assessors.

Mr. Levering updated the Council on his attendance at the AARO conference he attended. Mr. Levering requested that the Council think of who will be attending the upcoming AARO conference in the Fall. There was no discussion by the Council.

Mr. Wheeler inquired what would show up on Ms. Leaberry's criminal background check if a background check was completed. Ms. Davis-Oliva responded that her background check will not show any criminal charges since there was no criminal conviction.

Ms. Williams stated to the Council that the issue of a licensed appraiser trainee who is a Federal employee be allowed to use their out of state appraisal experience for credit for DE appraisal experience. Ms. Deaton, who was recently licensed as an appraiser trainee is currently a federal employee and she will be working in various other states and would like the council to accept her out of state experience as she will be performing many out of state appraisals. The Council reviewed her correspondence regarding a document from the Executive Office of the President, Office of Management and Budget which states that "federal employees who choose to become State-licensed or certified real estate appraisers need only be licensed or certified in one State or territory to perform real estate appraisal duties as Federal employees in all states and territories." Ms. Williams advised that the ASC did not have any federal regulations or law that prohibited states from accepting out of state experience; it was at the discretion of the State.

Mr. Diveley stated that he believes this Federal law trumps State law and regulations. Mr. Mandato agreed. Mr. Parker made a motion to approve out of state experience for appraiser trainees, seconded by Mr. Mandato. The motion carried unanimously.

#### **Public Comment**

Mr. Parker advised the Council that Mr. Jay White who was in attendance would be instructing the DE law rules and regulations course for the Appraisal Institute. Mr. White stated that he was happy to be able to attend a meeting to get additional information regarding the rules and regulations with the current changes taking place for the best interest of the public.

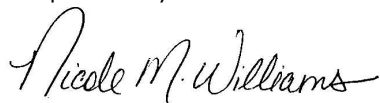
#### **Next Meeting**

The next meeting is scheduled for May 17, 2011 at 9:30 a.m. in Conference Room A second floor, Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware.

#### **Adjournment**

Mr. Huston made a motion, seconded by Mr. Parker to adjourn the meeting. There being no further business before the Council, the meeting adjourned at 10:41 a.m.

Respectfully submitted,

A handwritten signature in black ink that reads "Nicole M. Williams". The signature is written in a cursive, flowing style.

Nicole M. Williams  
Administrative Specialist II